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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 DITECH FINANCIAL LLC,)
11) Case No. 2:16-cv-00127-GMN-NJK
12 Plaintiff(s),)
13 v.) ORDER
14 SFR INVESTMENTS POOL 1, LLC, et al.,) (Docket No. 91)
15 Defendant(s).)

16 Pending before the Court is Plaintiff's motion to substitute parties. Docket No. 91. Defendant
17 SFR filed a response in opposition, and Plaintiff filed a reply. Docket Nos. 93, 96. The Court finds the
18 motion properly decided without a hearing. *See* Local Rule 78-1. For the reasons discussed below, the
19 motion is hereby **DENIED** without prejudice.

20 Whether to permit substitution of parties upon a transfer of interest is a matter entrusted to the
21 Court's discretion. Fed. R. Civ. P. 25(c). The motion acknowledges that discretionary consideration,
22 but provides in total two sentences of "legal argument." Docket No. 91 at 4. After SFR noted several
23 factual concerns, the reply attempts to bolster the motion by contending for the first time that its
24 "Assignment of Deed of Trust" constitutes competent evidence of a transfer of interest subject to judicial
25 notice and that various "instructive" factors support substitution. Docket No. 96 at 2-5. As to the
26 former issue, Plaintiff cites provisions in the Federal Rules of Evidence regarding judicial notice, but
27 provides no legal authority of any kind interpreting those rules as allowing judicial notice of documents
28 similar to the Assignment at issue here. Docket No. 96 at 3. This shortcoming is especially problematic

1 since the thrust of SFR's response is that the accuracy of such documentation is the subject of reasonable
2 questioning. *Compare id.* (noting standard for judicial notice) *with* Docket No. 93 at 3-5 (noting
3 potential for inaccuracy). With respect to the newly identified discretionary factors, Plaintiff provides
4 no explanation as to why such discussion was not provided in its motion. The Court declines to consider
5 arguments that were raised in reply for the first time. *See, e.g., Bazuaye v. I.N.S.*, 79 F.3d 118, 120 (9th
6 Cir. 1996).

7 Accordingly, the motion to substitute is hereby **DENIED** without prejudice. Any renewed
8 motion must provide meaningfully developed argument showing (1) that a transfer of interest has been
9 established through the motion and any exhibits thereto, and (2) that the Court should exercise its
10 discretion to afford the relief sought.

11 IT IS SO ORDERED.

12 DATED: November 8, 2017

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NANCY J. KOPPE
United States Magistrate Judge
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